

(N. J. 57.)

MISBRANDING OF CANNED APPLES.

(UNDERWEIGHT.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 2d day of December, 1908, in the district court of the United States for the district of Indiana, in a proceeding of libel for condemnation of 400 cases of canned apples misbranded as to weight, wherein the United States was libelant and Herman Hulman, Anton Hulman, and Herman Hulman, jr., a copartnership trading under the firm name of Hulman and Company, at Terre Haute, Ind., were claimants, the said claimants having filed their answer admitting the allegations of the libel, and the cause having come on to be heard, a decree of forfeiture and condemnation was rendered by the court in substance and in form as follows:

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF INDIANA.

UNITED STATES

vs.

FOUR HUNDRED CASES OF CANNED APPLES, MORE OR LESS.

Now at this day comes the United States by Joseph B. Kealing, United States attorney for the district of Indiana, and Hulman and Company, a copartnership composed of the following members, to wit, Herman Hulman, Anton Hulman, and Herman Hulman, jr., claimants and owners of the six hundred and forty cases of canned apples, by John Hickey, their proctor, and this cause now coming on to be heard on the pleadings herein and after due deliberation being had in the premises, the court finds that all of the allegations contained in the libel are true and that the United States is entitled to recover herein. It is therefore ordered, adjudged, and decreed that the said six hundred and forty cases of canned apples are hereby condemned as being misbranded under the provisions of the Food and Drugs Act of June 30, 1906.

And it appearing to the court that the costs in this case, taxed at \$—, have been paid by the claimants, and the claimants having filed a good and sufficient bond herein, to the effect that the said six hundred and forty cases of canned apples shall not be sold or otherwise disposed of contrary to the provisions of the Food and Drugs Act of June 30, 1906,

It is further ordered, adjudged, and decreed that the marshal be, and he is hereby, directed to release the said six hundred and forty cases of canned apples and restore the same to the claimants herein.

The facts in the case were as follows:

On or about September 24, 1908, an inspector of the Department of Agriculture located in the possession of Hulman and Company, Terre Haute, Ind., 400 cases of canned apples, more or less, the cases and the individual cans contained therein being labeled "Erie Choice Winter Apples distributed by Erie Preserving Company, Buffalo, New York, San Francisco, California, net weight 30 to 34 ounces." The goods

had been shipped by the Erie Preserving Co., from Buffalo, N. Y., to Hulman and Company, Terre Haute, Ind., on November 30, 1907. A number of the cans were weighed by the inspector with the result that the net weight was found to vary from $23\frac{1}{2}$ to $28\frac{1}{4}$ ounces. As the claim was made on the label that the net weight of the cans was from 30 to 34 ounces, the goods were misbranded in violation of section 8 of the Food and Drugs Act.

On September 24, 1908, the facts were reported by the Secretary of Agriculture to the United States attorney for the district of Indiana, and libel for seizure and condemnation was duly filed, with the result hereinbefore stated.

H. W. WILEY,
F. L. DUNLAP,
GEO. P. McCABE,
Board of Food and Drug Inspection.

Approved:

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *April 26, 1909.*

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